

MSA
F. #2011R01123

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE APPLICATION OF THE
UNITED STATES OF AMERICA FOR
AN ORDER PURSUANT TO
18 U.S.C. § 2703(d)

TO BE FILED UNDER SEAL

**APPLICATION FOR HISTORICAL
CELL-SITE INFORMATION PER
§ 2703(d)**

No. **17 MISC 2576**

**APPLICATION OF THE UNITED STATES
FOR AN ORDER FOR HISTORICAL CELL-SITE INFORMATION
PURSUANT TO 18 U.S.C. § 2703(d)**

The United States of America, moving by and through its undersigned counsel, respectfully submits this application for an Order pursuant to 18 U.S.C. § 2703(d). The proposed Order would require T-Mobile, a cellular service provider, located in Parsippany, New Jersey, to disclose certain records and other information pertaining to the cellular telephone assigned call number (929) 355-7603, as described in Part I of Attachment A to the proposed Order. The records and other information to be disclosed are described in Part II of Attachment A. In support of this application, the United States asserts:

LEGAL BACKGROUND

1. T-Mobile is a provider of an electronic communications service, as defined in 18 U.S.C. § 2510(15). Accordingly, the United States may use a court order issued under § 2703(d) to require T-Mobile to disclose the items described in Part II of Attachment A, as these records pertain to a subscriber of electronic communications service and are not the contents of communications. *See* 18 U.S.C. § 2703(c)(1).

2. This Court has jurisdiction to issue the proposed Order because it is “a court of competent jurisdiction,” as defined in 18 U.S.C. § 2711(3). *See* 18 U.S.C. § 2703(d). Specifically, the Court is a district court of the United States that has jurisdiction over the offense being investigated. See 18 U.S.C. § 2711(3)(A)(i).

3. A court order under § 2703(d) “shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d). Accordingly, the next section of this application sets forth specific and articulable facts showing that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation.

THE RELEVANT FACTS

4. The United States is investigating a possible violation by Ted Peters of 18 U.S.C. § 922(g) (felon-in-possession of a firearm), and the terms of Peters’s supervised release, imposed on January 20, 2016, by the Honorable Kiyo A. Matsumoto, United States District Judge for the Eastern District of New York, in the matter titled United States v. Peters, Criminal Docket No. 11-587.

5. Specifically, after midnight on August 20, 2017, in the Canarsie neighborhood of Brooklyn, four people were shot in shootout at an outdoor party in the back yard of a home. An eyewitness to the shooting identified Peters in a photo array as one of the shooters.

6. Based on the identification, the U.S. Probation Department has alleged that Peters violated the terms of his supervised release in the above-referenced criminal case by committing new criminal conduct, including the New York crimes of attempted murder, assault and criminal possession of a weapon. Furthermore, because Peters has previously been convicted of a felony, the shooting would constitute the federal offense of possessing a firearm after a felony conviction, in violation of 18 U.S.C § 922(g).

7. On August 28, 2017, Peters was arraigned before United States Magistrate Judge Jamie Orenstein, who ordered Peters detained pending resolution of the charges. On September 1, 2017, after reviewing a video recording of the shooting and receiving information from defense counsel, including that a security video recording of Peters's home during the time period surrounding the shooting showed that Peters only left his home for a short period and was wearing clothing that was different from the shooter, the government consented to the Peters's release from custody.

REQUEST FOR ORDER

8. The facts set forth in the previous section show that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation. Specifically, the information could either corroborate the eyewitness who identified Peters as the shooter or suggest that Peters was not present at the party at the time of the shooting. Accordingly,

the United States requests that T-Mobile be directed to produce all items described in Part II of Attachment A to the proposed Order.

Dated: Brooklyn, New York

September 18, 2017

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IN RE APPLICATION OF THE
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AN ORDER PURSUANT TO
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TO BE FILED UNDER SEAL

No. _____

ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2703(d), requesting that the Court issue an Order requiring T-Mobile, an electronic communications service provider located in Parsippany, New Jersey, to disclose the records and other information described in Attachment A to this Order.

The Court finds that the United States has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2703(d), that T-Mobile shall, within ten days of the date of this Order, disclose to the United States the records and other information described in Attachment A to this Order.

Dated: Brooklyn, New York
September 18, 2017



The Hon. Steven L. Tiscione
United States Magistrate Judge

ATTACHMENT A

I. The Account(s)

The Order applies to records and information associated with the cellular telephone assigned call number (929) 355-7603 (the “Account”).

II. Records and Other Information to Be Disclosed

T-Mobile is required to disclose the following records and other information, if available, to the United States for each Account listed in Part I of this Attachment, for the time period August 19, 2017 through August 21, 2017:

- A. The following information about the customers or subscribers of the Account:
 1. Names (including subscriber names, user names, and screen names);
 2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
 3. Local and long distance telephone connection records;
 4. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol (“IP”) addresses) associated with those sessions;
 5. Length of service (including start date) and types of service utilized;
 6. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifier (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Number (“MSISDN”), International Mobile Subscriber Identifiers (“IMSI”), or International Mobile Equipment Identities (“IMEI”));
 7. Other subscriber numbers or identities (including the registration Internet Protocol (“IP”) address); and
 8. Means and source of payment for such service (including any credit card or bank account number) and billing records.

- B. All records and other information (not including the contents of communications) relating to wire and electronic communications sent from or received by the Account, including the date and time of the communication, the method of communication, and the source and destination of the communication (such as source and destination email addresses, IP addresses, and telephone numbers), and including information regarding the cell towers and sectors through which the communications were sent or received.